2009 Legislative Session-at-a-Glance

OVERVIEW

During the 2009 legislative session the Kansas Health Policy Authority (KHPA) continued to pursue the health reform agenda initiated in 2008 which addressed the need for both fundamental changes in our health care system and measures to improve the health of Kansans. Under the directive of the 2007 Kansas Legislature in S.B. 11 the Kansas Health Policy Authority (KHPA) was "to develop and deliver health care finance reform options for enactment by the legislature during the 2008 regular session". Accordingly, KHPA gathered data and community input with the goal of developing a legislative agenda that was comprehensive and concretely addressed the health needs of Kansans. With the goals of prevention, personal responsibility, and providing and protecting affordable health insurance in mind, the KHPA in 2008 recommended 21health reforms to the legislature.

KHPA Overview

KHPA is a quasi-independent unclassified agency created by the legislature in 2005, and led by a Board of Directors appointed by the Governor and legislative leadership

KHPA is charged in statute with gathering and compiling a wide array of Kansas health related data that is used to guide policy development and inform the public. Additionally, KHPA is charged in statute with providing development of a statewide health policy agenda including health care and health promotion components

The 2009 KHPA legislative package focused on the health reform recommendations that either did not pass or were not funded by the 2008 legislature. Collectively the 2009 recommendations would have made a substantial contribution to improved health for all Kansans through: a statewide clean indoor air provision, an increase in tobacco user fees, a Medicaid expansion to cover parents up to 100 percent federal poverty level (FPL), improved tobacco cessation treatment in Medicaid, implementation of a statewide Community Health Record (CHR), expanded cancer screening programs for low-income and uninsured Kansans, expanded Coordinated School Health Program, and workplace wellness grants for small businesses. However, none of the recommendations were enacted by the 209 legislature.

KHPA also sought additional funding from the Kansas Legislature to expand the State Children's Health Insurance Program (SCHIP) in FY 2010. In 2008, the Legislature authorized expanding SCHIP to cover children in families up to 250% of FPL but that expansion was subject to additional state appropriation and availability of additional federal funds. KHPA requested $1.2 million in state funds and the 2009 legislature appropriated that amount from the Children's Initiative Fund for the SCHIP expansion.

KHPA has engaged in the process of reorganizing and refocusing the agency to expand capacity for data analysis and management, and to adopt data-driven processes in the management of our programs. The 2008 Medicaid Transformation and program reviews identified several administrative changes and efficiencies that could be implemented in the Medicaid program without reducing the number of people served. Those were presented to the Governor and the 2009 Legislature. Among those changes was a proposal to implement a mental health preferred drug list (PDL) for the Medicaid and MediKan programs in order to promote safety and reduce costs for mental health drugs. A bill was introduced to accomplish this. A hearing was held and attempts to craft a compromise substitute bill were undertaken but ultimately no legislative action was taken on the issue.

WHAT HAPPENED TO THE 2009 KHPA HEALTH REFORM RECOMMENDATIONS ?

The KHPA 2009 legislative agenda was a compilation of policy recommendations drawn from the 2008 comprehensive health reform recommendations, the 2008 SCHIP expansion authorization, and the 2008 Medicaid Transformation findings.

- The State Clean Indoor Air Act was introduced in the Senate Public Health and Welfare Committee and became SB 25. As introduced, the bill would have banned smoking in all public places, with exceptions for outdoor areas, private residences, 20 percent of hotel rooms, the Kansas Soldiers' Home, certain portions of adult care homes and tobacco shops. It passed out of the Senate committee with minor changes, and was approved by the full Senate by a vote of 26-13 after amendments that exempted the gaming floors of casinos and racetracks, and private clubs in existence before January 1, 2009. Amendments were also added by the Senate to modify the regulation of cigarette displays. The House referred SB 25 to the Health and Human Services Committee where hearings were held. The bill was later tabled in the House committee. The Senate Public Health and Welfare Committee then inserted its contents into HB 2221. The bill again passed the Senate. The House voted to non-concur with the Senate's amendments to HB 2221. A conference committee was appointed, but never reached agreement on the bill.

- The KHPA requested the introduction of HB 2327, which would have increased state tobacco user fees by 75 cents per pack. The bill was referred to the House Taxation Committee, but did not receive a hearing. The remainder of the health reform initiatives for 2009 depended on having a reliable revenue stream to support the efforts. Since the increased tobacco user fees were not approved, those health reform initiatives also failed.

- The KHPA requested funding to implement an expansion of the Children's Health Insurance Program to cover children in households making up to 250% of the federal poverty level. $1.2 million in state general funds were approved and an estimated 9,000 additional children will be covered under the expanded eligibility standards.

- In order to promote safety and reduce costs for mental health drugs, the KHPA proposed implementing a mental health preferred drug list (PDL) for the Medicaid and MediKan programs. SB 166 was introduced during session and would have stricken the language from current law that prohibits a PDL for mental health drugs and allowed KHPA to put a PDL into place. Several stakeholder groups expressed concern about the impact of adding a mental health PDL, so the KHPA met with these stakeholders to work on an acceptable compromise measure. The compromise bill failed to garner sufficient support so current law stands and KHPA is prohibited from implementing the mental health PDL. A proviso currently in place also prohibits the implementation of a mental health PDL for the MediKan program.

ADDITIONAL POLICIES OF AGENCY INTEREST CONSIDERED BY THE 2009 LEGISLATURE

During the 2009 legislative session, KHPA closely tracked legislation which could have had an impact on KHPA. None of those bills considered by the legislature become law. KHPA also monitored all broader health related legislation (See Appendix A). The KHPA direct-impact bills are described below.

- Senate Bill 12 would have changed coverage requirements for autism spectrum disorder. The fiscal note for the SEHBP was estimated to be $4.6 million to incorporate these benefits. The bill received a hearing in the Senate Committee on Financial Institutions and Insurance, but was never debated by the full Senate.

- Senate Bill 129 would have required KHPA to suspend, rather than terminate, Medicaid eligibility for incarcerated persons. If enacted, this bill would have required changes to the Medicaid Management Information System (MMIS); procedural changes that would have prevented draw-down of any federal funding for services received during the period of incarceration; and increases in Medicaid medical assistance caseload by an estimated average of 838 persons per month in FY 2011. The estimated total fiscal effect of this bill for KHPA in 2011 was $5,214,936 including $2,104,818 from State General Funds. The bill died in the Senate.

- Senate Bill 141 would have moved the Office of Inspector General (OIG) from KHPA to the Legislative Division of Post Audit (LPA) requiring the Inspector General to report directly to the LPA Committee. The bill received a hearing in the Senate but did not pass.

- Senate Bill 173 would have created an exemption in the State Employee Health Benefit Plan to allow retired public officers or public employees who were once covered by the plan but elected to discontinue coverage after retiring to obtain coverage by plan once again after a qualifying event. A qualifying event was defined as either the death or divorce from a spouse. The bill was approved by the full Senate but did not receive a hearing in the House.

- House Bill 2198 would have required small employers to offer high-deductible health plans and HSAs; any employer providing health insurance to offer a premium-only cafeteria plan; and the State Employee Health Benefit Plan (SEHBP) to offer high-deductible and HSA options beginning in plan year 2010. The bill died in the House.

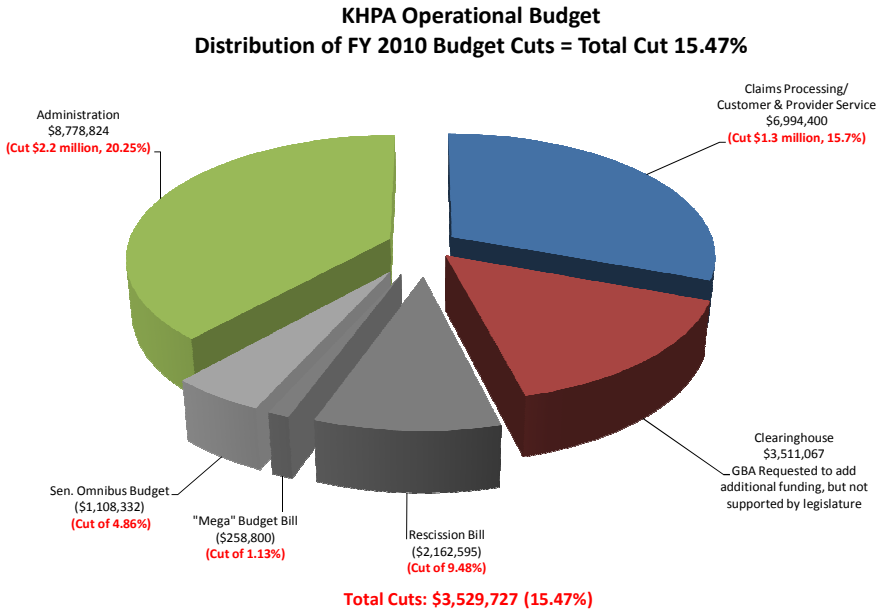
- House Bill 2259 required the KHPA to apply for waivers from the Centers for Medicare and Medicaid Services (CMS) to offer health savings accounts, health opportunity accounts or both in Medicaid. The bill passed out of the House committee, but was never approved by the full House.

- House Bill 2275 would have required KHPA to establish a program for random drug screening of all public assistance applicants and recipients before January 1, 2010. The bill was amended to exclude Medicaid due to an incompatibility with Federal Medicaid law and then passed the House and died in the Senate.

SEE ALSO APPENDIX A

OVERVIEW OF THE BUDGET

The majority of the 2009 legislative session focused on balancing both the FY 2009 and FY 2010 budgets. Declines in state revenues necessitated three separate legislative budget bills: the FY 2009 Rescission bill (SB 23), the FY 2010 Mega Budget bill (HB 2354), and the FY 2010 Omnibus Budget bill (HB 2373). Each bill reduced KHPA's operating budget but exempted medical assistance caseload expenses. The original KHPA FY 2009 operating budget, approved by the 2008 legislature, was $22,814,018 (SGF). Each of the subsequent budget bills passed by the 2009 Legislature applied cuts to that operational budget: The rescission bill cut $2,162,598 (9.48%) from the FY 2009 operational budget. The preliminary FY 2010 budget approved in the Mega bill reduced that amount by another $258,800 (1.13%). The final FY 2010 budget approved in the Omnibus bill cut an additional $1,108,332 (4.86%). The combined effect of all three bills is a reduction of $3,529,727 (15.47%) compared to the original FY 2009 approved budget.



The Rescission Bill

Legislative Rescission Bill:

- Reduces FY 2009 operating budget 9.4% ($2,381,862 SGF)
- Accepts savings from Medicaid program and Transformation changes
- Suspension of agency contributions to State Employee Health Plan for seven pay periods

Agency Impact:

- Requires KHPA to hold 28 positions vacant
- Reductions in contractual service expenditures total $3.5 million (All Funds); $1.1 million (SGF)
- Administrative belt-tightening, including banning out-of-state travel, reduced supplies and equipment purchases, limiting printing and communications, and restricting staff training.
- Terminate Kansas Legal Services contract
- Stop development of online application
- Terminate Community Health Record pilot project
- Terminate Enhanced Care Management pilot project

The Mega Budget Bill

Legislative FY 2010 Mega Budget Bill:

- Further agency budget cut of 1.13% excluding caseload
- Funding of $1.2 million to expand SCHIP from 200% fpl to 250% of FPL
- Limit MediKan benefits to 18 months
- Establish agency position limitation of 272.7 FTEs

Agency Impact:

- Reduction of $300,000 to MMIS contract which results in 25% less customer and provider services

The Omnibus Budget Bill

Legislative FY 2010 Omnibus Budget Bill:

- Further agency budget cut of 2.5% excluding caseload
- Addition of $3.5 million SGF (5.9 million AF) to fund WCGME
- Proviso instructing KHPA to transfer the Kansas Legal Services contract and funding to SRS
- Rejection of Governor's Budget Amendment adding $498,000 (SGF $217,450) for Clearinghouse operations
- Terminate Kansas Health Online contract

Agency Impact:

- Reduction of $1.4 million to MMIS contract which results in as much as 40-45% reduction to customer and provider services
- Layoff 13 KHPA staff and eliminate an additional 2 positions

SEE ALSO APPENDIX B

Appendix A: Other Legislation of Agency Interest

Bill Number	Brief Description	Impact on KHPA	Final Outcome
SB 12	If enacted SB 12 would: • Require insurance coverage for the treatment of autism spectrum disorder for any employer-sponsored health plan with 50 or more eligible employees • For any employer with 50 or more eligible employees, services are subject to a $75,000 annual maximum • Employers with fewer than 50 employees, or individual health plans are not required to provide coverage for autism spectrum disorder	• Provisions of the bill would be applicable to the SEHBP • KHPA estimated that the cost to the state and non-state employee group coverage by adding ASD to the SEHP would be approximately $4,671,000 for FY 2010. Payments for benefits under SEHP coverage are considered off-budget expenditures.	• Died in Senate committee
SB 49	If enacted SB 49 would: • Require health insurance policies to provide the same benefits for the treatment of alcoholism, drug abuse or other substance use disorder as it does for any mental illness. • Such coverage would include annual coverage for not less than 45 days of inpatient care for mental illness and 45 visits for out-patient care for mental illness.	• The federal requirements of HR 1424 will be applied to the SEHBP beginning in 2010; these requirements will have a greater fiscal effect than the requirements of SB 49. • SB 49, if enacted, would be implemented within KHPA's existing staff and resources.	• Passed in the Senate; did not receive a hearing in the House
SB 129	If enacted SB 129 would: • Require KHPA to suspend, rather than terminate, Medicaid eligibility for incarcerated persons. • Such persons would remain in suspended status indefinitely and have prior Medicaid eligibility reinstated on the day they leave jail or prison until current eligibility could be determined.	• Changes to the Medicaid Management Information System (MMIS) would be required at a cost of $88,436. The State General Fund (SGF) portion would be $44,218. • Procedural changes to ensure that medical assistance eligibility	• Died in the Senate

Bill Number	Brief Description	Impact on KHPA	Final Outcome
	• A waiver of federal regulations would be required. If a waiver was approved, significant changes to the statewide eligibility system would be necessary. • A federal waiver would also be required to restore prior Medicaid eligibility for those leaving jail or prison.	was protected for inmates would be required; this process would not allow draw-down of any federal funding for services received during the period of incarceration. This could involve both financial determinations and disability determinations for cases that would no longer be maintained by Social Security. • KHPA would require 2 additional FTE positions at a cost of $100,000 per year. • KHPA caseload estimates indicated Medicaid medical assistance would increase by an average of 838 persons per month in FY 2011 (estimated annual caseload cost: $5,026,500 including $2,010,600 in SGF). • The estimated total fiscal effect for KHPA in 2011 was $5,214,936 including $2,104,818 from State General Funds.	
SB141	If enacted, SB 141 would have moved the Office of the Inspector General (OIG) from KHPA to the Legislative Division of Post Audit (LPA) requiring the Inspector General to report directly to the LPA Committee.	• Physically moving the OIG out of KHPA. • KHPA Board Chair testified before the Ways and Means Committee on the benefit of having the OIG housed within KHPA as well as uncertainty over the bill's expansion of the OIG's new functions. • The net effect of SB	• Did not pass.

Bill Number	Brief Description	Impact on KHPA	Final Outcome
		141 in FY 2010 would have been: o A decrease in expenditures of $305,346, including $102,969 from the SGF • The OIG currently provides KHPA with internal auditing capacity. If LPA was to charge KHPA for that function, KHPA would accrue additional costs.	
SB 173	If enacted, SB 173 would have: • Created an exemption in the SEHBP to allow retired public officers or public employees who were once covered by the plan but elected to discontinue coverage after retiring to obtain coverage by plan once again after a qualifying event. • A qualifying event was defined as either the death or divorce from a spouse.	• The KHPA would be required to implement the new standards for retirees wishing to return to the SEHBP. • Retirees participating in the State Employee Health Plan pay the full cost of health insurance coverage. Therefore, SB 173 would have no direct effect on state funds. However, depending on the actual expenditures for health care of those retirees who are allowed to return, the entire plan could have had higher costs.	• Passed the Senate, failed to receive hearing in the House
HB 2198	If enacted, HB 2198 would require: • Small employers to offer high-deductible health plans and HSAs; • Any employer that provides health insurance to offer a premium only cafeteria plan; and • The State Employee Health Benefit Plan (SEHBP) to offer high-deductible and HSA options beginning in plan year 2010.	• No impact	• Died in the House

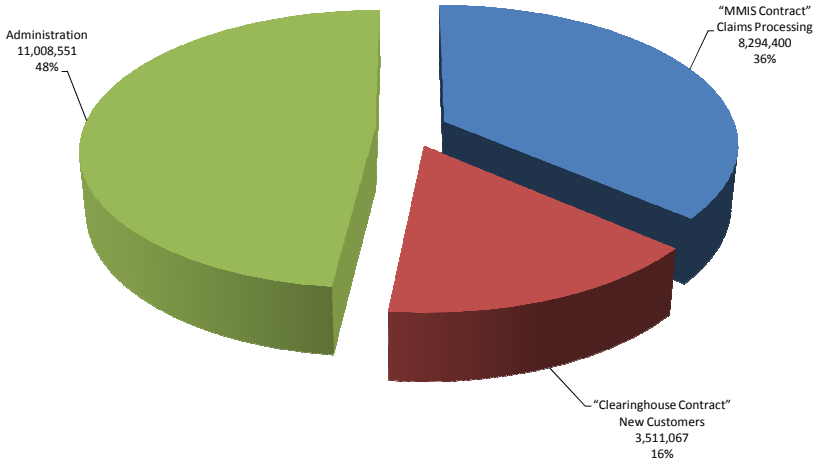
Bill Number	Brief Description	Impact on KHPA	Final Outcome
HB 2259	If enacted, HB 2259 would require: • KHPA to apply for waivers from the Centers for Medicare and Medicaid Services (CMS) to offer health savings accounts, health opportunity accounts or both in Medicaid.	• KHPA would be required to apply for waivers to include HSAs and HOAs in Medicaid • The bill would also require KHPA to reform Medicaid to promote personal responsibility for health care services and appropriate utilization of health care benefits. • The bill would authorize KHPA to develop and implement a pilot premium assistance plan to assist eligible employees of small employers to purchase an employer-sponsored health benefit plan or to buy-in to a state approved individual health benefit plan. • To implement the program, KHPA would require 3.00 additional FTE positions and $2.3 million, including $1,150,000 from the State General Fund.	• Died in the House
HB 2274	If enacted, HB 2274 would: • Allow insurance companies, nonprofit health service corporations, nonprofit medical and hospital service corporations or HMOs to issue mandate-light insurance policies to individuals who have been without insurance for at least six months • The policy would not exceed 18 months and would not require certain	• The bill would not directly impact the KHPA, but would promote KHPA's goals of extending access to the uninsured.	• Died in House committee

Bill Number	Brief Description	Impact on KHPA	Final Outcome
	types of benefits.		
HB 2275	If enacted, HB 2275 would: • Require KHPA to establish a program for random drug screening of all public assistance applicants and recipients before January 1, 2010. • Affect the Department of Social and Rehabilitation Services which administers the following programs o Temporary Assistance for Families o General Assistance o Child Care Assistance	KHPA submitted written testimony indicating that federal rules prohibitKHPA and SRS from implementing drug screening as a condition of eligibility for: • Medicaid and SCHIP • Food Assistance and Child Care Programs. The bill was subsequently amended to comply with Federal law. KHPA and SRS could not estimate a fiscal effect for HB 2275 because the number of applicants and recipients to be tested each month and the treatment options that would be available was unknown.	• Passed the house, died in the senate.
HB 2287	If enacted, HB 2287 would: • Allow small employers that currently do not offer a group health benefit plan to contribute to the premium of an eligible employee's individually underwritten health insurance plan through the establishment of a Health Reimbursement Arrangement (HRA). • The portion of the premium attributed to the employee could be paid through a Section 125 cafeteria plan.	• Passage of the bill would have no fiscal effect on the KHPA.	• Died in the House
HB 2288	If enacted, HB 2288 would: • Require, upon receiving a written request from a patient, a health care provider to provide the patient an estimate of the cost of the service in a timely manner. The provider could include a disclaimer that the actual cost may differ from the estimate. • The requirements would not apply to emergency health care services.	• HB 2288 could have a fiscal effect for the health care providers, including providers for the Medicaid program and the SEHBP, related to the necessary paperwork and time to do the cost estimates. The bill would have no direct fiscal effect on the state or the KHPA.	• Died in House committee

Bill Number	Brief Description	Impact on KHPA	Final Outcome
HB 2289	If enacted, HB 2289 would: • Allow all insurers that offer individual or group sickness and accident insurance to offer a mandate-lite benefit plan. A mandate-lite benefit plan would be an individual or group sickness and accident plan that does not contain one or more of the Kansas mandated benefits. • It would require the insurer to provide to the insured a written notice that one or more of the state mandated benefits are not included in the plan.	• The bill would have no direct impact on the KHPA.	• Died in House committee

Appendix B: Budget Summaries

KHPA Operational Budget
Base = FY 2009 Budget: $22,814,018 (SGF)



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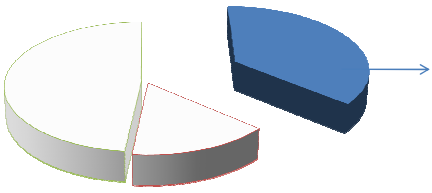
KHPA Functions at a Glance: Claims Processing ($8.3 Million)



- Medicaid Management Information System (MMIS) - federal mandate: data processing system that manages claims and payments; assures compliance with state plan
- Surveillance Utilization Review Subsystem (SURS) - federal mandate: identifies waste, fraud and abuse
- Payment Error Rate Measurement (PERM) – federal mandate; assures program integrity
- Customer and Provider Service Call Centers: answer calls from providers, beneficiaries with billing, eligibility and other questions.
- FY 2009: Processing avg. 1.5 million claims per month
- Disbursing avg. $197 million per month in payments to providers
- Call Centers handling 21,127 incoming calls per month
- Outsourced to independent contractor
- Most costs fixed: volume-based contract

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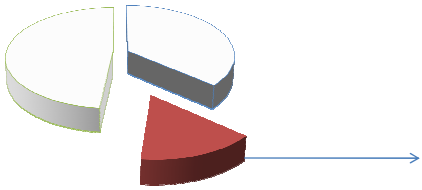
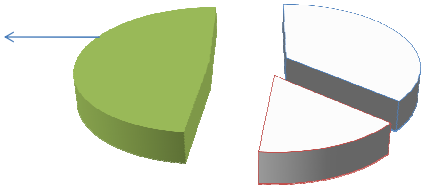
KHPA Functions at a Glance: Clearinghouse ($3.5 Million)



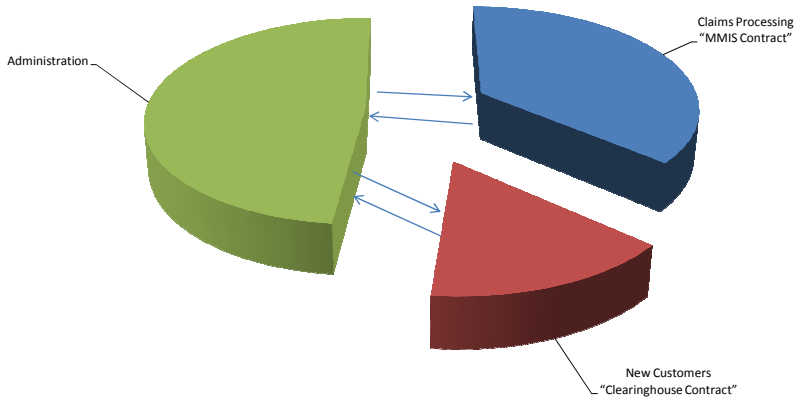
- Processes Medicaid and SCHIP applications for coverage: federal mandate to process an application within 45 days
- Similar to a "sales" department in private sector
- Issues new policies
- Screens applicants for eligibility
- Unified application process: One application for family; screens for all eligible services
- Workload fluctuates with economy
- Majority of work outsourced
- FY 2009 – Receiving an average of 10,736 applications and reviews per-month
- ***Backlog of applications already growing as economy worsens***

KHPA Functions at a Glance: Administration ($11 Million)

- Finance and Operations: budget; accounting; financial reports; purchasing
- In-house eligibility and claims processing (required by federal law)
- Actuarial Analysis: data evaluation; risk assessment; long-range planning
- Program management: quality improvement; risk management; cost control
- Human Resources
- Information Technology
- Legal Services
- Governmental and Stakeholder Relations
- Communications/Public Relations
- Physical Plant: rent; utilities; equipment; supplies



KHPA: Agency Function Interaction



Only portions of Claims Processing and Clearinghouse functions are outsourced. Federal law requires significant involvement/oversight by KHPA staff (for example, final eligibility determination for Medicaid/SCHIP must be made by a state employee, not by a contractor) .

KHPA: Impact of 15.47% Operational Cut

- **By December, 30,000 to 50,000 People with Delayed Medicaid/SCHIP Applications**
  - $25 - $30 Million in uncompensated or foregone medical care, delayed payments
  - $15 - $20 Million in foregone federal funding
  - Needed medical care delayed; negative health outcomes
  - Impact felt in all Medicaid agencies: KHPA; SRS, Aging; JJA
- **40 - 45% Cut in Customer and Provider Service**
  - Affects 20,000 Medicaid providers' ability to ensure access for their patients; receive prompt payment for services
  - Immediate delays in pharmacy care
  - 300,000 beneficiaries lose resource to resolve eligibility, coverage questions
  - Increase customer service demand on SRS, Aging, JJA
- **Staff Layoffs: 13-15 positions (beginning July 2010)**
- **Federal Non-Compliance with 45-Day Rule**
  - Risk of future Medicaid Funding
- **Medicaid Stimulus Funding for Kansas was not used to protect Medicaid operations**
  - Federal stimulus dollars for Medicaid prevented cuts to Medicaid caseloads but fewer State General Funds were then provided to keep Medicaid operations whole